

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

RONALD G. TURNER,

Plaintiff,

- against -

**ROBERT L. WILKIE, Secretary, United States
Department of Veterans Affairs,**

Defendant.

18 CV 4038 (LMS)

ORDER

THE HONORABLE LISA MARGARET SMITH, U.S.M.J.¹

In support of its motion for summary judgment, Defendant submitted a declaration from counsel attesting that certain of its exhibits are "true and correct copies of documents from the Report of Investigation, dated June 14, 2014, prepared in connection with the EEO Complaint of Ronal Turner," and that others are "true and correct copies" of records the Department of Veterans Affairs provided counsel from its files relating to Plaintiff's lawsuit. Declaration of Brandon Cowart, ECF No. 56 ¶¶ 3-5. On a motion for summary judgment, the Court need only consider evidence that would be admissible at trial. I.M. v. United States, 362 F.Supp.3d 161, 174 n.9, 190 (S.D.N.Y. 2019). In order to be admissible, the documents referenced in paragraphs three and five of counsel's declaration (exhibits 1-34) need to be authenticated. See Fed. R. Evid. 901 and 902. Counsel's statements that these are true and correct copies of what counsel received are insufficient to authenticate these documents. If Defendant wishes for the

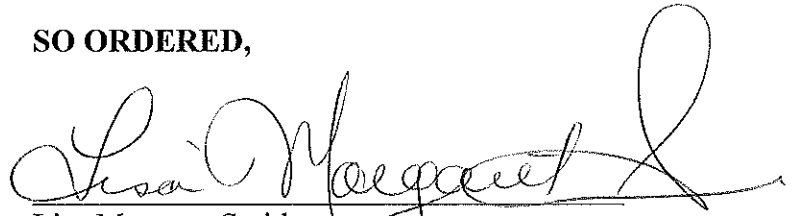
¹ The parties consented to the undersigned's exercise of jurisdiction over this matter pursuant to 28 U.S.C. § 636(c) on February 8, 2019. ECF No. 27.

Court to consider exhibits 1-34, Defendant should provide a certification(s) from someone with knowledge or evidence supporting that the documents are admissible under the rules of evidence.

A copy of this order has been mailed by chambers to pro se Plaintiff of record.

Dated: August 20, 2020
White Plains, New York

SO ORDERED,



Lisa Margaret Smith
United States Magistrate Judge
Southern District of New York